

ORDINANCE NO. 13 – 1407

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 SECTION 90-60 “CONSTRUCTION ADJACENT TO BULKHEAD LINES” SUBSECTION 90-60.1 OF THE TOWN OF SURFSIDE CODE OF ORDINANCES REQUIRING NO PERMIT SHALL BE ISSUED FOR THE CONSTRUCTION, REPAIR, EXTENSION, ALTERATION OR REPLACEMENT OF ANY HABITABLE, FULLY-ENCLOSED STRUCTURE EAST OF COLLINS AVENUE; NO PERMIT SHALL BE ISSUED FOR THE CONSTRUCTION, REPAIR, EXTENSION, ALTERATION OR REPLACEMENT OF ANY HABITABLE, FULLY ENCLOSED STRUCTURE CLOSER THAN 20 FEET TO THE WEST OF THE OCEAN BULKHEAD LINE; ALL PROPERTIES EAST OF COLLINS AVENUE MEETING CERTAIN CONDITIONS WILL BE REQUIRED TO PROVIDE AN ACCESS EASEMENT TO THE TOWN GRANTING THE PERPETUAL USE OF THE HARDPACK TO THE PUBLIC; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Surfside (“Town”) proposes to amend its Code of Ordinances to address uniformity and updates in the construction adjacent to bulkhead lines; and

**WHEREAS**, the Town adopted Resolution No. 13-Z-04 and Resolution No. 13-Z-06 approving site plan applications which included a perpetual, irrevocable easement in favor of the public in the area commonly referred to as the “hardpack” to the Erosion Control Line; and

**WHEREAS**, the “hardpack” is defined as the sand road west of the Erosion Control Line used by public safety vehicles; and

**WHEREAS**, it is in the best interest of the Town that no permit shall be issued for the construction, repair, extension, alteration or replacement of any habitable, fully-enclosed structure east of the ocean bulkhead line and the properties closer than 20 feet to the west of the ocean bulkhead line; and

**WHEREAS**, it is in the best interest of the Town that before a permit is issued, all properties east of the ocean bulkhead line will be required to provide an access easement to the Town granting the perpetual use of the hardpack to the public; and

**WHEREAS**, the Town Commission held its first public reading on July 16, 2013 and recommended approval of the proposed amendments to the Code of Ordinances having complied with the notice requirements by the Florida Statutes; and

**WHEREAS**, the Planning and Zoning Board, as the local planning agency for the Town, has held a public hearing on July 25, 2013 and recommended approval of the proposed amendments to the Code of Ordinances and also found the proposed Code amendments to be consistent with the Comprehensive Plan; and

**WHEREAS**, the Town Commission has conducted a second duly noticed public hearing on these regulations as required by law on August 13, 2013 and further finds the proposed change to the Code necessary and in the best interest of the community.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA as follows:**

**Section 1. Recitals.** The foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

**Section 2. Code Amendment.** The code of the Town of Surfside, Florida is hereby amended as follows:

**Sec. 90-60. Construction adjacent to bulkhead lines.**

*90-60.1* Ocean bulkhead lines are established in section 14-86 and the following regulations shall control construction adjacent thereto:

- (1) No permit shall be issued for the construction of any habitable, fully-enclosed structure ~~which shall be closer than 20 feet to~~ east of the ocean bulkhead line.
- (2) No permit shall be issued for the repair, extension, alteration or replacement of any habitable, fully-enclosed structure ~~lying within 20 feet~~ east of the ocean bulkhead line.
- (3) No permit shall be issued for the construction of any habitable, fully enclosed structure closer than 20 feet to the west of the ocean bulkhead line.
- (4) No permit shall be issued for the repair, extension, alteration or replacement of any habitable, fully enclosed structure lying within 20 feet to the west of the ocean bulkhead line.
- (5) All properties east of Collins Avenue which upon redevelopment or expansion of habitable, fully enclosed structures require a permit from the Town shall be required to provide an access easement to the Town granting the perpetual use of the hardpack to the public, provided that the development creates an impact on

public safety and the need for the easement is proportional to the impact created. The hardpack is defined as the sand road west of the Erosion Control Line used by public safety vehicles. Each access easement agreement shall be in a form acceptable to the Town Manager and approved as to legal sufficiency by the Town Attorney and shall contain a signed and sealed boundary survey and legal description of the easement area.

**Section 3. Severability.** If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

**Section 4. Conflict.** All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

**Section 5. Inclusion in the Code of Ordinances.** It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word "ordinance" may be changed to "Section" or other appropriate word.

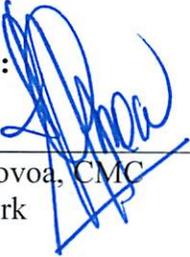
**Section 6. Effective Date.** This Ordinance shall be effective ten (10) days after adoption on second reading.

PASSED and ADOPTED on first reading this 16<sup>th</sup> day of July, 2013.

PASSED and ADOPTED on second reading this 13 day of August, 2013.

  
\_\_\_\_\_  
Daniel Dietch, Mayor

ATTEST:

  
\_\_\_\_\_  
Sandra Novoa, CMC  
Town Clerk

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:**

  
\_\_\_\_\_  
Linda Miller, Town Attorney

On Final Reading Moved by: Commissioner Graubart

On Final Reading Seconded by: Vice Mayor Karukin

Vote:

Commissioner Graubart	yes <input checked="" type="checkbox"/> no <input type="checkbox"/>
Commissioner Kligman	yes <u>ABSENT</u> no <input type="checkbox"/>
Commissioner Olchyk	yes <u>ABSENT</u> no <input type="checkbox"/>
Vice Mayor Michael Karukin	yes <input checked="" type="checkbox"/> no <input type="checkbox"/>
Mayor Daniel Dietch	yes <input checked="" type="checkbox"/> no <input type="checkbox"/>

Medical Commission of the  
State of New York

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